IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 460 of 1991

Date of Decision :- March 16, 2007

Sukhminder Singh ....PETITIONER

VERSUS

State of Punjab ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Naresh Kaushal, Advocate with
Mr. Harish Goyal, Advocate
for the petitioner.

Ms. Reeta Kohli, DAG Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 13.7.1991 of the Additional Sessions Judge, Ropar, dismissing the appeal of the petitioner against judgment dated 31.1.1990 of the Chief Judicial Magistrate, Ropar, convicting Sukhminder Singh son of Karnail Singh under Section 304-A IPC and sentencing him to undergo R.I. for one year and to pay a fine of Rs.500/-, in default to further undergo R.I. for two months.

The case of the prosecution is that Kirpal Singh made statement Ex.PD, that on 23.2.1986 at 7.00 or 7.30 p.m., he was going

from Ropar to his village on a scooter. When he reached near Boat Club, Ropar, Mohan Singh son of Milkhi Ram met him. Kirpal Singh gave him a lift on his scooter. When they reached near the turning point of the road leading to Village Alam Pur, a truck bearing No.PAT-9486 came from behind and overtook them. It was being driven in a rash and negligent manner. After crossing them, when it went at some distance, it struck a woman, who was carrying a baby in her hands. Both the woman and the child fell down and were crushed under the wheels of the truck. The truck driver instead of bringing the truck to a halt, sped away. Later on, Kripal Singh came to know the name of the woman, being Tej Kaur wife of Arjan Singh and name of the child being Soni alias Jaspal Kaur. FIR Ex.PD/2 was recorded on the basis of this statement. Inquest report Ex.PE was prepared. The Investigating Officer during the course of investigation took truck No. PAT-9486 into possession on 24.2.1988, vide recovery memo Ex.PW4/A.

The prosecution to prove its case brought into the witness box Dr. Rajnish Sood as PW1, Mohan Singh as PW2, Kirpal Singh as PW3, Sewa Singh as PW4 and SI Nazar Singh as PW5.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

The main thrust of the learned counsel for the petitioner, is that the accused was not present at that time, when the occurrence had taken place and he has been falsely roped in at a later stage. In his statement under Section 313 Cr.P.C., the plea of alibi was taken. Sewa Singh PW4, the owner of the truck in his testimony before the Court has

stated, that he is the owner of truck No. PAT-9486 and the petitioner is its driver. The learned trial Court has rightly held that documents Ex.D1, D2 and D3 have been forged, only to prove the plea taken by the petitioner/accused regarding he being not present at that time, when the occurrence had taken place.

The ocular account, as propounded by Mohan Singh PW2 and Kirpal Singh PW3, gets corroboration from Dr. Rajnish Sood PW1, who performed the post-mortem report vide report Ex.PA and Ex.PB.

I do not find any infirmity in the impugned judgment. Conviction of the petitioner is maintained.

Sentence of the petitioner is on the harsher side. The sword of conviction is hanging over the head of the petitioner for the last 16 years. This itself is a punishment. Sentence of the petitioner is modified from one year R.I. to already undergone.

With the above modification in the order of sentence, revision petition is dismissed.

March 16, 2007 **(MEHTAB S.GILL)**
ska **JUDGE**

WHETHER TO BE REFERRED TO REPORTER? YES/NO